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UNITED STATES BANKRUPTCY COURT

DISTRICT OF OREGON

In re:

ALBRECHT FARMS, LLC

Case No. 20-30452-dwh12

Chapter 12

Debtor.

**NOTICE OF MOTION AND MOTION TO COMPEL DEBTOR TO REJECT UNEXPIRED
LEASE AND OPPORTUNITY TO OBJECT AND FOR A HEARING**

TO ALBRECHT FARMS LLC, Debtor in Possession: The Court may consider this request for an order without further notice or hearing unless a party in interest files an objection within 21 days of the date of this notice.

YOU ARE NOTIFIED that unless you file an objection to this notice no later than 21 days after the service date and set forth the specific grounds for the objection and your relation to the case, with the clerk of court at 1050 SW 6th Ave #700, Portland, OR 9720 and serve it on D. Blair Clark, at LAW OFFICES OF D. BLAIR CLARK PC, 967 E. Parkcenter Blvd., #282, Boise, ID 83706, Phone: 208-475-2050 or 208-863-2505, the undersigned will proceed to take the proposed action, or apply for an order if required, without further notice or a hearing.

COMES NOW PHASE 3 FARMS, INC., an Oregon corporation, and HERBERT DAVIS, individually and as president thereof, and moves the Court pursuant to FRBP 6006 as follows:

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1. Debtor filed this chapter 12 case on February 7, 2020.
2. In its Petition and Schedules, and particularly Schedule G, Debtor listed Herb Davis as the Lessor of a “5 year lease with option to purchase 45 acres, of which 22 is farmable with 22 acres water rights; purchase price \$220,000; contract dated 12/13/15; property currently fallow - to be used for mint next spring; option to renew for 3-5 year extension.”
3. Although there was no legal description on the schedules, Movant asserts that the legal description is or should be: “Township 27 South, Range 33 E.W.M., Harney County, Oregon: Tax Lot 800; and That portion of Tax Lot 900 lying Southeast of Lava Bed Road.”
4. The rent due under the purported Lease, \$26,000.00 annually, was and is not paid. The cash collateral orders approved by the Court do not provide for any sum for payment of the rent for the premises.
5. The property is not being farmed; by Debtor’s own statements, the property is currently fallow and expected to be so for this year.
6. The term of the Lease as Debtor stated in Schedule G is inaccurate. Rather, there is no option to purchase, and no written documents between the parties. Rather, in February, 2017, Mr. Davis’ counsel prepared a purchase and sale agreement, note, deed of trust, right of first refusal and other documents to consummate a sale between Debtor’s principal, Kody Albrecht, and Mr. Davis. The documents were prepared in draft form to be reviewed by the parties, and Amerititle was to close the transaction. This sale, however, never happened; the escrow with Amerititle was closed and there are no written documents signed between the movants and the Debtor or its principal. Debtor has no more than an oral lease for one year or less.

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7. Debtor has no right in the property this year as a 'holdover tenant' as there is no crop thereon.

WHEREFORE, Movant prays that the Court order that the Debtor reject the unexpired lease between the parties and determine that there is no further right in Debtor pertaining to the property described herein.

LAW OFFICES OF D. BLAIR CLARK PC

by /s/ D. Blair Clark
D. Blair Clark, OSB# 050300
Attorneys for Phase 3 Farms, Inc., and Herbert Davis

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of April, 2020, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

ANTHONY V ALBERTAZZI, for Debtor
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All registered ECF participants, by ECF

/s/ D. Blair Clark
D. Blair Clark